

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-2333**

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DONOVAN ANTHONY DAWKINS,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

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On Petition for Review of an Order of the Board of Immigration Appeals. (A74-343-669)

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Submitted: June 15, 2005

Decided: July 12, 2005

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Before WILKINSON and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Petition denied by unpublished per curiam opinion.

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William Payne, BLAIR & LEE, P.C., College Park, Maryland, for Petitioner. Peter D. Keisler, Assistant Attorney General, Richard M. Evans, Assistant Director, Carolyn M. Piccotti, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Donovan Anthony Dawkins, a native and citizen of Jamaica, petitions for review of both an order of the Board of Immigration Appeals ("Board") and the immigration judge, arguing that his due process rights were violated when neither court considered his application for voluntary departure. Dawkins concedes removability under 8 U.S.C. § 1182(a)(2)(A)(i)(II), but contends that the court did not properly consider his application for voluntary departure. We deny the petition.

On May 11, 2005, The REAL ID Act, 119 Stat. § 231 went into effect, amending 8 U.S.C. § 1252(a)(2) (2000) to add a subsection (D) that states in pertinent part:

(D) Judicial review of certain legal claims

Nothing in subparagraph (B) or (C), or in any other provision of this chapter (other than this section) which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.

8 U.S.C. § 1252(a)(2)(D) (2005). Although we have jurisdiction to consider Dawkins' claim, we find that it was not properly raised or pursued before either the immigration judge or the Board. We therefore find that Dawkins was not entitled to adjudication on the issue. Accordingly, we deny Dawkins' petition for review. We dispense with oral argument because the facts and legal contentions

are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED